

The enclosed information is provided to you to assist in the posting of your property to permit enforcement of various laws and ordinances which relate to your situation. These rules must be followed explicitly or enforcement may not be possible.

GENERAL RULES:

- * Signs are not provided by the police department so you must have your signs made by the method of your choosing.
- * Signs must be a minimum of 17x22 inches with letters no smaller than one inch. Multiple notices may be placed on the same sign.
- * Signs must be posted at all entrances to the affected property. If this is not done, enforcement is not possible. When there has been a failure to post signs as required by VC 22658, party ordering removal is liable for two times the amount charged for towing and storage.
- * It is recommended that you cover your signs with plastic sheeting to protect against vandalism. It is cheaper to replace the cover than the sign.
- * A single sign may contain as many prohibitions as you want so long as the minimum dimension is complied with.

ILLEGAL PARKING:

The California Vehicle Code (CVC) in Sections 22658 and 22953 establishes rules for the removal of illegally parked vehicles from private property. These two sections are enclosed and should be carefully reviewed as they contain many conditions you must meet to avoid financial liability.

All of the general rules apply to illegal parking. In addition, the following measures apply:

- * The sign must read:

"PRIVATE PROPERTY
CUSTOMER PARKING ONLY / TENANT PARKING ONLY (CHOOSE 1)
VIOLATORS MAY BE CITED OR TOWED AWAY AT OWNERS' EXPENSE
FMC 10-806/CVC 22658
FRESNO POLICE DEPARTMENT, 498-1414"

It is recommended that business owners include a time limit on the sign such as "1 hour limit for customers" or "only while shopping at _ _ _ _ ." This is to accommodate a legal decision from Southern California which make such a limit advisable.

- * It is the responsibility of the property owner or his agent to notify a tow company to have a vehicle removed subject to the provisions of CVC 22658, 22953. The police department does not remove illegally parked vehicles from private property unless they have been reported stolen, embezzled, abandoned, or were involved in a hit and run.
- * It is not necessary to have a vehicle cited before it is removed. If you do request that vehicles be cited you or your agent must be present and will be required to sign the citation. This can create some difficulty as response to calls of illegal parking are frequently delayed due to calls of higher priority. To avoid being present at the time the citation is issued you may, instead, direct a letter to the Chief of Police authorizing the citation of any vehicles parked on your property after business hours. The letter must be renewed every 6-months. Before you choose to request enforcement by letter keep in mind that upon receipt of a letter officers may cite any vehicles on your posted property. If you have employee or company vehicles on your property a letter would not work as officers have no way of discerning between authorized and unauthorized vehicles.
- * If you have a vehicle towed you must follow the provisions of Vehicle Code sections 22658 and 22953. Especially critical is the requirement to notify the police department of the vehicle's removal prior to towing it.

The owner or person in lawful possession of any private property may subsequent to notifying, by telephone or, if impractical, by the most expeditious means available, the city police or county sheriff, whichever is appropriate, cause the removal of a vehicle parked on the property to the nearest public garage under any of the following circumstances:

- (1) There is displayed, in plain view at all entrances to the property, a sign of not less than 17 by 22 inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that vehicles will be removed at the owner's expense, and containing the

telephone number of the local traffic law enforcement agency, and the sign may also indicate that a citation may also be issued for the violation. (no change) See VC 22953.

NOTE: There is no requirement that the vehicle be cited.

(2) The vehicle has been issued a notice of parking violation, and 96 hours have elapsed since the issuance of that notice. (new)

NOTE: Vehicle must be issued a parking citation by the appropriate law enforcement agency. Posting of the property not required. 96 hours after the vehicle has been cited the property owner or his/her agent may have the vehicle removed. FPD or appropriate agency notification is required at time of removal.

(3) The vehicle is on private property and lacks an engine, transmission, wheels, tires, doors, windshield, or any other major part of equipment necessary to operate safely on the highways, the owner or person in lawful possession of the private property has notified the city police or county sheriff, as appropriate, and 24 hours have elapsed since that notification. (new)

NOTE: This addition now allows a private property owner to have a vehicle missing major parts or equipment as listed above, removed from the property without law enforcement involvement, except for the requirement to notify your enforcement agency 24 hours prior to removal.

It is not required that the vehicle be cited or that the property be posted.

The law enforcement agency having jurisdiction must be notified twice under this section. First, when the owner of the property decides to have the vehicle removed and secondly, 24 hours later at the time of removal.

(4) The lot or parcel upon which the vehicle is parked is improved with a single-family dwelling. (no change)

CONSUMPTION OF ALCOHOLIC BEVERAGES:

Fresno Municipal Code section 8-120 prohibits the consumption of alcoholic beverages on parking or other lots open to the general public. Before this ordinance can be enforced on your property you must first request a determination by the Chief of Police that your property fits the category "open to the general public." After a qualifying finding has been made you must then post signs as required under "General Rules" and then send a letter to the Chief of Police requesting that FMC 8-120 be enforced on your premises (see sample). Signs should read:

"CONSUMPTION OF ALCOHOLIC BEVERAGES PROHIBITED"
FMC 8-120

PAGE 4

GAMBLING:

Fresno Municipal Code Section 8-121.1 prohibits gambling on parking lots open to the public. To permit enforcement of this section your sign must read "NO GAMBLING, MC8-121.1". In addition, your letter requesting enforcement should contain a request similar to the attached sample letter.

LOITERING:

If you want the Police Department to enforce trespassing laws on your property then your sign and letter should reflect this, similar to the samples. The sign should read:

"NO LOITERING / TRESPASSING"
PC 602/647G

CONCLUSION:

Once you have complied with the requirements contained in this document, police officers or you may be able to take the specified enforcement actions. This does not mean that officers will automatically apprehend all of the drinkers, loiterers, and gamblers on your property. What the officer will be able to do is check out problems on your premises and take appropriate action as his time allows. Should you identify a specific problem at a given time and date, you are encouraged to call the Police Department and report the violation(s) so that an officer may be dispatched to investigate. It is critically important that you recognize these "guidelines" as just that. Where references have been made to legal requirements, it is your responsibility to review and follow the law. Keep in mind that the law changes and it is incumbent upon you to keep abreast of changes which may occur. If you err, you could be held financially responsible.

If you have any questions about this matter feel free to call the Community Services Bureau at 498-1296 for additional information.

Sincerely,

FRESNO POLICE DEPARTMENT

ATTACHMENTS

CP7/LMA

- S A M P L E -

Dear Chief

I request that the Fresno Police Department enforce Municipal Code Section 8-120, 8-121.1, PC 602 and PC 647G by the arrest/citation of any person(s) observed drinking, gambling, illegally parking or loitering on my property at:

SIGNED: _____

Owner/Operator or Representative

DATE: _____

- S A M P L E -

Removal From Private Property

ATTACHMENT B

persons.
(c) Subdivision (a) does not apply to property designated for parking at an apartment complex, or to property designated for parking at a hotel or motel where the parking stalls or spaces are clearly marked for a specific room.

Added Ch. 1333, Stats. 1985. Effective January 1, 1986.

(c) A minimum of Five Hundred Dollars (\$500.00) for each additional violation of Section 9-413 that occurs within one year. (Added Ord. 90-40, § 10, eff. 5-18-90).

SECTION 9-415. ENFORCEMENT AUTHORITY. The Director and designees shall have the authority to enforce the provisions of this article and to arrest any person without a warrant for a violation of this article when committed in their presence, and to issue a notice to appear pursuant to Penal Code Section 836.5. This authority shall be in addition to the authority granted to police officers under this Code. (Added Ord. 90-40, § 11, eff. 5-18-90).

SECTION 9-416. OTHER REMEDIES NOT PRECLUDED. Nothing in this Code shall be deemed to limit the right of the city or the authorized recycling agent to bring a civil action against any person who violates Section 9-413; nor shall a conviction for such violation exempt any person from a civil action brought by the city or the authorized recycling agent. (Added Ord. 90-40, § 12, eff. 5-18-90).

SECTION 9-417. OTHER MEANS OF DISPOSAL OF RECYCLABLE MATERIALS. Nothing in this chapter shall be deemed to limit the right of the individual person to donate and/or sell their recyclable materials. (Added Ord. 90-40, § 13, eff. 5-18-90).

(v) That the application contained falsehoods; or

(vi) That any fact or condition exists which, if it had been known to exist at the time of the original application for such permit, reasonably would have warranted the Director in refusing originally to issue such permit.

(3) Ten days' written notice of revocation shall be given by the Director to the permit holder. Unless an appeal to the Chief Administrative Officer is filed within the ten-day period, the revocation shall be final.

(4) Ten days' written notice of suspension shall be given by the Director to the permit holder. Unless an appeal to the Chief Administrative Officer is filed within the ten-day period, or the requirements specified by the Director to the end the suspension period are satisfied, the suspension shall be final. The permit holder may not exercise the permit during the suspension period.

(5) Within ten days after written notice of any decision of the Director made under the provisions of this section, including the denial or a location permit or the imposition of conditions, any person aggrieved thereby may appeal the decision to the Chief Administrative Officer. The notice of appeal must be in duplicate in writing addressed to the Chief Administrative Officer, and must include a copy of the Director's written decision, the reasons for the appellant's objections thereto, and the facts upon which he bases his appeal.

(6) The Chief Administrative Officer shall have power and it shall be his duty to hear and determine appeals of decisions of the Director made under the provisions of this section. Upon receipt of any notice of appeal, the Chief Administrative Officer shall set the matter for hearing not less than ten nor more than thirty days thereafter, shall deliver a copy of the appeal to the Director and shall give written notice of the time and place fixed for the hearing to the appellant and the Director. Following such hearing, the Chief Administrative Officer may affirm, modify or reverse such decisions or dismiss the appeal therefrom, as he deems just.

(7) Hearings before the Chief Administrative Officer shall be conducted informally and may be continued. The Chief Administrative Officer shall render his decision within fifteen days after the close thereof. The decision of the Chief Administrative Officer shall be final. (Am. Ord. 79-74, § 1, eff. 6-1-79; Am. Ord. 80-115, § 98, eff. 8-8-80; Am. Ord. 90-40, § 7, eff. 5-18-90).

SECTION 9-409. UNAUTHORIZED DISPOSAL OF SOLID WASTE PROHIBITED.

(a) No person shall throw or deposit, or cause to be thrown or deposited, any solid waste matter in or upon any vacant lot, street, alley, gutter, highway, park or other public place or keep any residential rubbish or solid waste matter except in the manner prescribed by this article.

(b) No person shall deposit solid waste in the container of another person, or set out solid waste for collection at another person's service location, except that this provision shall not apply to solid waste deposited or set out for collection by any customer sharing a community container; and, except that temporary service locations may be established by the Director in instances

where the Director has knowledge of construction, demolition, or other temporary obstacles which prevent the use of or access to permanent service locations.

(c) No customer shall permit or consent to another person depositing solid waste in his container or setting out solid waste for collection at his place or premise; except that this provision shall not apply to solid waste deposited or set out for collection by any customer sharing a community container; and, except that temporary service locations may be established by the Director in instances where the Director has knowledge of construction, demolition, or other temporary obstacles which prevent the use of or access to permanent service locations.

(d) No person shall burn solid waste in a home heating furnace, fireplace, or wood stove, excepting that non-plasticized waste paper may be used for kindling of fires in wood burning appliances. (Am. Ord. 79-74, § 1, eff. 6-1-79; Am. Ord. 80-99, § 3, eff. 7-25-80; Added Ord. 90-74, § 3, eff. 8-24-90).

SECTION 9-410. FINANCIAL PROCEDURES. All billing for and collection of solid waste service charges and for permit fees shall be handled as provided in this article and in Article 11 of Chapter 2 of this Code. (Am. Ord. 79-74, § 1, eff. 6-1-79).

SECTION 9-411. BURYING SOLID WASTE PROHIBITED. Except as authorized sanitary landfills, no person shall bury or cause to be buried any solid waste, table scraps, or leavings, food waste, food containers or wrappers, or animals bodies or parts. (Am. Ord. 79-74, § 1, eff. 6-1-79).

SECTION 9-412. OWNERSHIP OF SEGREGATED RECYCLABLE MATERIALS. All segregated recyclable material placed at curbside or other designated collection location, in a designated recyclable material container, during the period of time between 6:00 p.m. on the day preceding the recyclable material collection day and 8:00 p.m. of the recyclable material collection day shall be and become the property of the city or authorized recycling agent. (Added 90-40, § 8, eff. 5-18-90).

SECTION 9-413. UNAUTHORIZED REMOVAL OF SEGREGATED RECYCLABLE MATERIAL UNLAWFUL. No person, other than the city and the authorized recycling agent, shall remove segregated recyclable materials once they have been placed at curbside or other designated collection location to be collected by the city or authorized recycling agent. Each such removal of segregated recyclable material from a separated designated collection location is a separate and distinct violation punishable as provided in this Code. (Added Ord. 90-40, § 9, eff. 5-18-90).

SECTION 9-414. PENALTY. Every person convicted of a violation of Section 9-413, shall in addition to the other penalties provided for in this code be fined:

(a) A minimum on One Hundred Dollars (\$100.00) for the first violation of Section 9-413; and

(b) A minimum of Two Hundred Dollars (\$200.00) for a second violation of Section 9-413 within one year; and